

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	JUDGE POLSTER
THIS DOCUMENT RELATES TO:)	
)	
<i>TPP Cases</i>)	
)	ORDER CONFIRMING THE
)	TPP BELLWETHER PROCESS

The Court earlier set into place a process for the parties to pick four bellwether cases filed by Third Party Payor (“TPP”) plaintiffs. The process required TPP plaintiffs and defendants to: (1) each propose six TPP cases, and then (2) strike four of the other side’s cases, thereby leaving four cases – two plaintiff picks and two defendant picks. The Court also required the process to yield cases from at least three different Circuits. The parties have completed this process, and the Court now confirms that the following four cases will go forward as TPP bellwethers:

- *United Food and Commercial Workers Health and Welfare Fund of Northeastern Pennsylvania*, case no. 17-op-45177 (E.D. Pa.) (3rd Circuit).
- *Sheet Metal Workers Local No. 25 Health & Welfare Fund*, case no. 18-op-45002 (E.D. Pa.) (3rd Circuit).
- *Louisiana Assessors Insurance Fund v. AmerisourceBergen Drug Corp.*, case no. 18-op-46223 (M.D. La.) (5th Circuit).
- *Pioneer Telephone Cooperative Inc. Employee Benefits Plan v. Purdue Pharma LP*, case no. 18-op-46186 (W.D. Okla.) (10th Circuit).

Discovery and motion practice in these cases will proceed involving all named Defendant Families¹

¹ By “Defendant Families,” the Court means all entities that are related. For example, the “Johnson & Johnson” defendant family also includes Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc., and Noramco, Inc.

(except those regarding which a bankruptcy stay has been entered). Whether a single trial goes forward against all Defendant Families at once, or instead the case is tried in some other fashion, will be at the discretion of the transferor court after remand.

The Court directs the parties to meet and confer and, on or before November 15, 2023, submit proposed Case Management Orders (“CMOs”) for these four cases. The CMOs may include deadlines for amendment of complaints. *See In re: Nat’l Prescription Opiate Litig.*, 2022 WL 20701236, at *2 (6th Cir. Nov. 10, 2022) (MDL docket no. 4747) (confirming that, because “[this MDL Court’s] original scheduling order allowed plaintiffs to amend whenever their case was selected as a bellwether,” amendment was allowed). Parties named in any amended complaints will be limited to the following nine Defendant Families: (1) the Big Three Manufacturers – Johnson and Johnson, Teva, and Allergan; (2) the Big Three Distributors – Cardinal, McKesson, and Cencora; and (3) the Big Three Pharmacies – Walgreens, Walmart, and CVS.

The parties shall agree on as much as possible on the proposed CMOs and should work with Special Master Cohen to address any disagreements. If disagreements remain, the parties will submit competing CMOs, highlighting the areas of disagreement, and the Court will resolve them.

IT IS SO ORDERED.

/s/ Dan Aaron Polster

DAN AARON POLSTER

UNITED STATES DISTRICT JUDGE

Dated: October 25, 2023